

106TH CONGRESS  
2D SESSION

# S. 2102

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IN THE HOUSE OF REPRESENTATIVES

JULY 20, 2000

Referred to the Committee on Resources

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## AN ACT

To provide to the Timbisha Shoshone Tribe a permanent land base within its aboriginal homeland, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Timbisha Shoshone  
5       Homeland Act”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) Since time immemorial, the Timbisha Sho-  
4 shone Tribe has lived in portions of California and  
5 Nevada. The Tribe's ancestral homeland includes the  
6 area that now comprises Death Valley National Park  
7 and other areas of California and Nevada now ad-  
8 ministered by the Bureau of Land Management.

9 (2) Since 1936, the Tribe has lived and gov-  
10 erned the affairs of the Tribe on approximately 40  
11 acres of land near Furnace Creek in the Park.

12 (3) The Tribe achieved Federal recognition in  
13 1983 but does not have a land base within the  
14 Tribe's ancestral homeland.

15 (4) Since the Tribe commenced use and occu-  
16 pancy of the Furnace Creek area, the Tribe's mem-  
17 bership has grown. Tribal members have a desire  
18 and need for housing, government and administra-  
19 tive facilities, cultural facilities, and sustainable eco-  
20 nomic development to provide decent, safe, and  
21 healthy conditions for themselves and their families.

22 (5) The interests of both the Tribe and the Na-  
23 tional Park Service would be enhanced by recog-  
24 nizing their coexistence on the same land and by es-  
25 tablishing partnerships for compatible land uses and

1 for the interpretation of the Tribe's history and cul-  
2 ture for visitors to the Park.

3 (6) The interests of both the Tribe and the  
4 United States would be enhanced by the establish-  
5 ment of a land base for the Tribe and by further de-  
6 lineation of the rights and obligations of each with  
7 respect to the Furnace Creek area and to the Park  
8 as a whole.

9 **SEC. 3. PURPOSES.**

10 Consistent with the recommendations of the report  
11 required by section 705(b) of the California Desert Protec-  
12 tion Act of 1994 (Public Law 103–433; 108 Stat. 4498),  
13 the purposes of this Act are—

14 (1) to provide in trust to the Tribe land on  
15 which the Tribe can live permanently and govern the  
16 Tribe's affairs in a modern community within the  
17 ancestral homeland of the Tribe outside and within  
18 the Park;

19 (2) to formally recognize the contributions by  
20 the Tribe to the history, culture, and ecology of the  
21 Park and surrounding area;

22 (3) to ensure that the resources within the Park  
23 are protected and enhanced by—

24 (A) cooperative activities within the Tribe's  
25 ancestral homeland; and

1 (B) partnerships between the Tribe and  
2 the National Park Service and partnerships in-  
3 volving the Bureau of Land Management;

4 (4) to ensure that such activities are not in  
5 derogation of the purposes and values for which the  
6 Park was established;

7 (5) to provide opportunities for a richer visitor  
8 experience at the Park through direct interactions  
9 between visitors and the Tribe including guided  
10 tours, interpretation, and the establishment of a  
11 tribal museum and cultural center;

12 (6) to provide appropriate opportunities for eco-  
13 nomically viable and ecologically sustainable visitor-  
14 related development, by the Tribe within the Park,  
15 that is not in derogation of the purposes and values  
16 for which the Park was established; and

17 (7) to provide trust lands for the Tribe in 4  
18 separate parcels of land that is now managed by the  
19 Bureau of Land Management and authorize the pur-  
20 chase of 2 parcels now held in private ownership to  
21 be taken into trust for the Tribe.

22 **SEC. 4. DEFINITIONS.**

23 In this Act:

1           (1) PARK.—The term “Park” means Death  
2       Valley National Park, including any additions to  
3       that Park.

4           (2) SECRETARY.—The term “Secretary” means  
5       the Secretary of the Interior or the designee of the  
6       Secretary.

7           (3) TRIBAL.—The term “tribal” means of or  
8       pertaining to the Tribe.

9           (4) TRIBE.—The term “Tribe” means the  
10      Timbisha Shoshone Tribe, a tribe of American Indi-  
11      ans recognized by the United States pursuant to  
12      part 83 of title 25, Code of Federal Regulations (or  
13      any corresponding similar regulation or ruling).

14          (5) TRUST LANDS.—The term “trust lands”  
15      means those lands taken into trust pursuant to this  
16      Act.

17   **SEC. 5. TRIBAL RIGHTS AND AUTHORITY ON THE TIMBISHA**  
18                           **SHOSHONE HOMELAND.**

19      (a) IN GENERAL.—Subject to valid existing rights  
20      (existing on the date of enactment of this Act), all right,  
21      title, and interest of the United States in and to the lands,  
22      including improvements and appurtenances, described in  
23      subsection (b) are declared to be held in trust by the  
24      United States for the benefit of the Tribe. All maps re-  
25      ferred to in subsection (b) shall be on file and available

1 for public inspection in the appropriate offices of the Na-  
2 tional Park Service and the Bureau of Land Management.

3 (b) PARK LANDS AND BUREAU OF LAND MANAGE-  
4 MENT LANDS DESCRIBED.—

5 (1) IN GENERAL.—The following lands and  
6 water shall be held in trust for the Tribe pursuant  
7 to subsection (a):

8 (A) Furnace Creek, Death Valley National  
9 Park, California, an area of 313.99 acres for  
10 community development, residential develop-  
11 ment, historic restoration, and visitor-related  
12 economic development, depicted as Tract 37 on  
13 the map of Township 27 North, Range 1 East,  
14 of the San Bernardino Meridian, California,  
15 numbered Map #1 and dated December 2,  
16 1999, together with 92 acre feet per annum of  
17 surface and ground water for the purposes as-  
18 sociated with the transfer of such lands. This  
19 area shall include a 25-acre, nondevelopment  
20 zone at the north end of the area and an Adobe  
21 Restoration zone containing several historic  
22 adobe homes, which shall be managed by the  
23 Tribe as a tribal historic district.

24 (B) Death Valley Junction, California, an  
25 area of approximately 1,000 acres, as generally

1 depicted on the map entitled “Death Valley  
2 Junction, California”, numbered Map #2 and  
3 dated April 12, 2000, together with 15.1 acre  
4 feet per annum of ground water for the pur-  
5 poses associated with the transfer of such  
6 lands.

7 (C)(i) Centennial, California, an area of  
8 approximately 640 acres, as generally depicted  
9 on the map entitled “Centennial, California”,  
10 numbered Map #3 and dated April 12, 2000,  
11 together with an amount of ground water not to  
12 exceed 10 acre feet per annum for the purposes  
13 associated with the transfer of such lands.

14 (ii) If the Secretary determines that there  
15 is insufficient ground water available on the  
16 lands described in clause (i) to satisfy the  
17 Tribe’s right to ground water to fulfill the pur-  
18 poses associated with the transfer of such  
19 lands, then the Tribe and the Secretary shall,  
20 within 2 years of such determination, identify  
21 approximately 640 acres of land that are ad-  
22 ministered by the Bureau of Land Management  
23 in that portion of Inyo County, California, to  
24 the north and east of the China Lake Naval  
25 Weapons Center, to be a mutually agreed upon

1 substitute for the lands described in clause (i).  
2 If the Secretary determines that sufficient  
3 water is available to fulfill the purposes associ-  
4 ated with the transfer of the lands described in  
5 the preceding sentence, then the Tribe shall re-  
6 quest that the Secretary accept such lands into  
7 trust for the benefit of the Timbisha Shoshone  
8 Tribe, and the Secretary shall accept such  
9 lands, together with an amount of water not to  
10 exceed 10 acre feet per annum, into trust for  
11 the Tribe as a substitute for the lands described  
12 in clause (i).

13 (D) Scotty's Junction, Nevada, an area of  
14 approximately 2,800 acres, as generally de-  
15 picted on the map entitled "Scotty's Junction,  
16 Nevada", numbered Map #4 and dated April  
17 12, 2000, together with 375.5 acre feet per  
18 annum of ground water for the purposes associ-  
19 ated with the transfer of such lands.

20 (E) Lida, Nevada, Community Parcel, an  
21 area of approximately 3,000 acres, as generally  
22 depicted on the map entitled "Lida, Nevada,  
23 Community Parcel", numbered Map #5 and  
24 dated April 12, 2000, together with 14.7 acre  
25 feet per annum of ground water for the pur-



1           poses associated with the transfer of such  
2           lands.

3           (2) WATER RIGHTS.—The priority date of the  
4           Federal water rights described in subparagraphs (A)  
5           through (E) of paragraph (1) shall be the date of  
6           enactment of this Act, and such Federal water  
7           rights shall be junior to Federal and State water  
8           rights existing on such date of enactment. Such  
9           Federal water rights shall not be subject to relin-  
10          quishment, forfeiture or abandonment.

11          (3) LIMITATIONS ON FURNACE CREEK AREA  
12          DEVELOPMENT.—

13                (A) DEVELOPMENT.—Recognizing the mu-  
14                tual interests and responsibilities of the Tribe  
15                and the National Park Service in and for the  
16                conservation and protection of the resources in  
17                the area described in paragraph (1), develop-  
18                ment in the area shall be limited to—

19                       (i) for purposes of community and  
20                       residential development—

21                               (I) a maximum of 50 single-fam-  
22                               ily residences; and

23                               (II) a tribal community center  
24                               with space for tribal offices, recreation  
25                               facilities, a multipurpose room and

1 kitchen, and senior and youth facili-  
2 ties;

3 (ii) for purposes of economic  
4 development—

5 (I) a small-to-moderate desert  
6 inn; and

7 (II) a tribal museum and cultural  
8 center with a gift shop; and

9 (iii) the infrastructure necessary to  
10 support the level of development described  
11 in clauses (i) and (ii).

12 (B) EXCEPTION.—Notwithstanding the  
13 provisions of subparagraph (A)(ii), the National  
14 Park Service and the Tribe are authorized to  
15 negotiate mutually agreed upon, visitor-related  
16 economic development in lieu of the develop-  
17 ment set forth in that subparagraph if such al-  
18 ternative development will have no greater envi-  
19 ronmental impact than the development set  
20 forth in that subparagraph.

21 (C) RIGHT-OF-WAY.—The Tribe shall have  
22 a right-of-way for ingress and egress on High-  
23 way 190 in California.

24 (4) LIMITATIONS ON IMPACT ON MINING  
25 CLAIMS.—Nothing in this Act shall be construed as

1 terminating any valid mining claim existing on the  
2 date of enactment of this Act on the land described  
3 in paragraph (1)(E). Any person with such an exist-  
4 ing mining claim shall have all the rights incident to  
5 mining claims, including the rights of ingress and  
6 egress on the land described in paragraph (1)(E).  
7 Any person with such an existing mining claim shall  
8 have the right to occupy and use so much of the sur-  
9 face of the land as is required for all purposes rea-  
10 sonably necessary to mine and remove the minerals  
11 from the land, including the removal of timber for  
12 mining purposes. Such a mining claim shall termi-  
13 nate when the claim is determined to be invalid or  
14 is abandoned.

15 (c) LEGAL DESCRIPTIONS.—Not later than 1 year  
16 after the date of enactment of this Act, the Secretary shall  
17 file a legal description of the areas described in subsection  
18 (b) with the Committee on Resources of the House of Rep-  
19 resentatives and with the Committee on Indian Affairs  
20 and the Committee on Energy and Natural Resources of  
21 the Senate. Such legal description shall have the same  
22 force and effect as if the information contained in the de-  
23 scription were included in that subsection except that the  
24 Secretary may correct clerical and typographical errors in  
25 such legal description and in the maps referred to in the

1 legal description. The legal description shall be on file and  
2 available for public inspection in the offices of the Na-  
3 tional Park Service and the Bureau of Land Management.

4 (d) ADDITIONAL TRUST RESOURCES.—The Sec-  
5 retary may purchase from willing sellers the following par-  
6 cels and appurtenant water rights, or the water rights sep-  
7 arately, to be taken into trust for the Tribe:

8 (1) Indian Rancheria Site, California, an area  
9 of approximately 120 acres, as generally depicted on  
10 the map entitled “Indian Rancheria Site, California”  
11 numbered Map #6 and dated December 3, 1999.

12 (2) Lida Ranch, Nevada, an area of approxi-  
13 mately 2,340 acres, as generally depicted on the  
14 map entitled “Lida Ranch” numbered Map #7 and  
15 dated April 6, 2000, or another parcel mutually  
16 agreed upon by the Secretary and the Tribe.

17 (e) SPECIAL USE AREAS.—

18 (1) IN GENERAL.—The areas described in this  
19 subsection shall be nonexclusive special use areas for  
20 the Tribe, subject to other Federal law. Members of  
21 the Tribe are authorized to use these areas for low  
22 impact, ecologically sustainable, traditional practices  
23 pursuant to a jointly established management plan  
24 mutually agreed upon by the Tribe, and by the Na-  
25 tional Park Service or the Bureau of Land Manage-

1       ment, as appropriate. All maps referred to in para-  
2       graph (4) shall be on file and available for public in-  
3       spection in the offices of the National Park Service  
4       and Bureau of Land Management.

5               (2) RECOGNITION OF THE HISTORY AND CUL-  
6       TURE OF THE TRIBE.—In the special use areas, in  
7       recognition of the significant contributions the Tribe  
8       has made to the history, ecology, and culture of the  
9       Park and to ensure that the visitor experience in the  
10      Park will be enhanced by the increased and contin-  
11      ued presence of the Tribe, the Secretary shall permit  
12      the Tribe’s continued use of Park resources for tra-  
13      ditional tribal purposes, practices, and activities.

14             (3) RESOURCE USE BY THE TRIBE.—In the  
15      special use areas, any use of Park resources by the  
16      Tribe for traditional purposes, practices, and activi-  
17      ties shall not include the taking of wildlife and shall  
18      not be in derogation of purposes and values for  
19      which the Park was established.

20             (4) SPECIFIC AREAS.—The following areas are  
21      designated special use areas pursuant to paragraph  
22      (1):

23                (A) MESQUITE USE AREA.—The area gen-  
24                erally depicted on the map entitled “Mesquite  
25                Use Area” numbered Map #8 and dated April

12, 2000. The Tribe may use this area for processing mesquite using traditional plant management techniques such as thinning, pruning, harvesting, removing excess sand, and removing exotic species. The National Park Service may limit and condition, but not prohibit entirely, public use of this area or parts of this area, in consultation with the Tribe. This area shall be managed in accordance with the jointly established management plan referred to in paragraph (1).

(B) BUFFER AREA.—An area of approximately 1,500 acres, as generally depicted on the map entitled “Buffer Area” numbered Map #8 and dated April 12, 2000. The National Park Service shall restrict visitor use of this area to protect the privacy of the Tribe and to provide an opportunity for the Tribe to conduct community affairs without undue disruption from the public.

(C) TIMBISHA SHOSHONE NATURAL AND CULTURAL PRESERVATION AREA.—An area that primarily consists of Park lands and also a small portion of Bureau of Land Management land in California, as generally depicted on the

1 map entitled “Timbisha Shoshone Natural and  
2 Cultural Preservation Area” numbered Map #9  
3 and dated April 12, 2000.

4 (5) ADDITIONAL PROVISIONS.—With respect to  
5 the Timbisha Shoshone Natural and Cultural Pres-  
6 ervation Area designated in paragraph (4)(C)—

7 (A) the Tribe may establish and maintain  
8 a tribal resource management field office, ga-  
9 rage, and storage area, all within the area of  
10 the existing ranger station at Wildrose (existing  
11 as of the date of enactment of this Act);

12 (B) the Tribe also may use traditional  
13 camps for tribal members at Wildrose and  
14 Hunter Mountain in accordance with the jointly  
15 established management plan referred to in  
16 paragraph (1);

17 (C) the area shall be depicted on maps of  
18 the Park and Bureau of Land Management  
19 that are provided for general visitor use;

20 (D) the National Park Service and the Bu-  
21 reau of Land Management shall accommodate  
22 access by the Tribe to and use by the Tribe  
23 of—

24 (i) the area (including portions de-  
25 scribed in subparagraph (E)) for tradi-

1 tional cultural and religious activities, in a  
2 manner consistent with the purpose and  
3 intent of Public Law 95–341 (commonly  
4 known as the “American Indian Religious  
5 Freedom Act”) (42 U.S.C. 1996 et seq.);  
6 and

7 (ii) areas designated as wilderness (in-  
8 cluding portions described in subparagraph  
9 (E)), in a manner consistent with the pur-  
10 pose and intent of the Wilderness Act (16  
11 U.S.C. 1131 et seq.); and

12 (E)(i) on the request of the Tribe, the Na-  
13 tional Park Service and the Bureau of Land  
14 Management shall temporarily close to the gen-  
15 eral public, 1 or more specific portions of the  
16 area in order to protect the privacy of tribal  
17 members engaging in traditional cultural and  
18 religious activities in those portions; and

19 (ii) any such closure shall be made in a  
20 manner that affects the smallest practicable  
21 area for the minimum period necessary for the  
22 purposes described in clause (i).

23 (f) ACCESS AND USE.—Members of the Tribe shall  
24 have the right to enter and use the Park without payment  
25 of any fee for admission into the Park.



1 (g) ADMINISTRATION.—The trust lands shall con-  
2 stitute the Timbisha Shoshone Reservation and shall be  
3 administered pursuant to the laws and regulations appli-  
4 cable to other Indian trust lands, except as otherwise pro-  
5 vided in this Act.

6 **SEC. 6. IMPLEMENTATION PROCESS.**

7 (a) GOVERNMENT-TO-GOVERNMENT AGREE-  
8 MENTS.—In order to fulfill the purposes of this Act and  
9 to establish cooperative partnerships for purposes of this  
10 Act, the National Park Service, the Bureau of Land Man-  
11 agement, and the Tribe shall enter into government-to-  
12 government consultations and shall develop protocols to  
13 review planned development in the Park. The National  
14 Park Service and the Bureau of Land Management are  
15 authorized to enter into cooperative agreements with the  
16 Tribe for the purpose of providing training on the inter-  
17 pretation, management, protection, and preservation of  
18 the natural and cultural resources of the areas designated  
19 for special uses by the Tribe in section 5(e)(4).

20 (b) STANDARDS.—The National Park Service and the  
21 Tribe shall develop mutually agreed upon standards for  
22 size, impact, and design for use in planning, resource pro-  
23 tection, and development of the Furnace Creek area and  
24 for the facilities at Wildrose. The standards shall be based  
25 on standards for recognized best practices for environ-

1 mental sustainability and shall not be less restrictive than  
2 the environmental standards applied within the National  
3 Park System at any given time. Development in the area  
4 shall be conducted in a manner consistent with the stand-  
5 ards, which shall be reviewed periodically and revised as  
6 necessary.

7 (c) WATER MONITORING.—The Secretary and the  
8 Tribe shall develop mutually agreed upon standards for  
9 a water monitoring system to assess the effects of water  
10 use at Scotty's Junction and at Death Valley Junction on  
11 the tribal trust lands described in subparagraphs (A), (B),  
12 and (D) of section 5(b)(1), and on the Park. Water moni-  
13 toring shall be conducted in a manner that is consistent  
14 with such standards, which shall be reviewed periodically  
15 and revised as necessary.

16 **SEC. 7. MISCELLANEOUS PROVISIONS.**

17 (a) TRIBAL EMPLOYMENT.—In employing individuals  
18 to perform any construction, maintenance, interpretation,  
19 or other service in the Park, the Secretary shall, insofar  
20 as practicable, give first preference to qualified members  
21 of the Tribe.

22 (b) GAMING.—Gaming as defined and regulated by  
23 the Indian Gaming Regulatory Act (25 U.S.C. 2701 et  
24 seq.) shall be prohibited on trust lands within the Park.

1 (c) INITIAL RESERVATION.—Lands taken into trust  
 2 for the Tribe pursuant to section 5, except for the Park  
 3 land described in subsections (b)(1)(A) and (d)(1) of such  
 4 section, shall be considered to be the Tribe’s initial res-  
 5 ervation for purposes of section 20(b)(1)(B)(ii) of the In-  
 6 dian Gaming Regulatory Act (25 U.S.C.  
 7 2719(b)(1)(B)(ii)).

8 (d) TRIBAL JURISDICTION OVER TRUST LANDS.—All  
 9 trust lands that are transferred under this Act and located  
 10 within California shall be exempt from section 1162 of  
 11 title 18, United States Code, and section 1360 of title 28,  
 12 United States Code, upon the certification by the Sec-  
 13 retary, after consultation with the Attorney General, that  
 14 the law enforcement system in place for such lands will  
 15 be adequate to provide for the public safety and the public  
 16 interest, except that no such certification may take effect  
 17 until the expiration of the 3-year period beginning on the  
 18 date of enactment of this Act.

19 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

20 There are authorized to be appropriated to carry out  
 21 this Act such sums as may be necessary.

Passed the Senate July 19, 2000.

Attest:

GARY SISCO,  
*Secretary.*